

# **Exhibit 1**

## HOUSE OF REPRESENTATIVES—Thursday, May 27, 1993

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With gratitude and with obligation, we express thanks for this day and for the opportunity to accept the responsibilities that are given us. In spite of contention and conflict, we earnestly pray that we will be worthy of the high calling we have received to do the works of justice, to be faithful in service to others, and to earnestly and honestly seek to be the people You would have us be. May Your blessing, O gracious God, that is with us in all the moments of life, be with us this day and all our days. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the yeas appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electric device, and there were—yeas 244, nays 160, answered "present" 1, not voting 27, as follows:

(Roll No. 194)

## YEAS—244

Abercrombie	Bishop	Coleman
Ackerman	Blackwell	Collins (IL)
Andrews (ME)	Bonior	Collins (MI)
Andrews (NJ)	Borski	Combest
Andrews (TX)	Boucher	Condit
Applegate	Brewster	Conyers
Archer	Brooks	Cooper
Bacchus (FL)	Browder	Coppersmith
Baehner	Brown (FL)	Costello
Barcia	Brown (OH)	Coyne
Barlow	Bryant	Cramer
Barrett (WI)	Byrne	Danner
Bateman	Cantwell	Darden
Bocerra	Cardin	de la Garza
Boflenson	Carr	Deal
Berman	Castle	DeFazio
Bevill	Chapman	DeLauro
Bilbray	Clement	Derrick

Deutsch	Klink	Pickie
Dicks	Kreller	Pomeroy
Dingell	LaFalce	Poshady
Dixon	Lancaster	Price (NC)
Dooley	Lantos	Rahall
Durbin	LaRocco	Reed
Edwards (CA)	Laughlin	Reynolds
Edwards (TX)	Lehman	Richardson
English (AZ)	Levin	Rosmer
English (OK)	Lewis (GA)	Rostenkowski
Eshoo	Lipinski	Roth
Evans	Lloyd	Rowland
Fazio	Long	Roybal-Allard
Fields (LA)	Lowe	Rush
Filner	Maloney	Sargmeister
Fish	Mann	Sarpaluis
Flake	Manton	Sawyer
Foglietta	Margolies-	Schenk
Ford (MI)	Mezvinsky	Schumer
Ford (TN)	Markey	Scott
Frank (MA)	Matsui	Serrano
Frost	Mazzoli	Sharp
Furse	McCloskey	Sisk
Gejdenson	McCollum	Skaggs
Gephardt	McCurdy	Skolton
Geren	McDermott	Slattery
Gibbons	McHale	Slaughter
Gillmor	McKinnis	Smith (LA)
Gilman	McNulty	Spratt
Glickman	Meehan	Stark
Gonzalez	Meek	Stenholm
Gordon	Menendez	Stokes
Groen	Mfume	Strickland
Gutierrez	Miller (CA)	Studds
Hall (TX)	Miller (FL)	Stupak
Hamburg	Mineta	Swett
Hamilton	Minge	Swift
Harman	Mink	Tanner
Hastings	Moakley	Tauzin
Hayes	Mollohan	Tejeda
Hefner	Montgomery	Thornton
Hilliard	Moorhead	Thurman
Hinche	Moran	Torres
Hoagland	Murtha	Torricelli
Hochbrueckner	Myers	Towns
Holden	Nadler	Trafigant
Houghton	Natcher	Tucker
Hoyer	Neal (MA)	Unsoeld
Hughes	Oberstar	Valentine
Hutto	Obey	Velazquez
Inglis	Oliver	Vento
Jefferson	Ortiz	Visclosky
Johnson (GA)	Orton	Volkmmer
Johnson (SD)	Owens	Washington
Johnson, E. B.	Pallone	Waters
Johnston	Parker	Watt
Kanjorski	Pastor	Waxman
Kaptur	Payne (NJ)	Wilson
Kasich	Payne (VA)	Wise
Kennedy	Pelosi	Woolsey
Kennelly	Penny	Wyden
Kildee	Peterson (FL)	Wynn
Klaczka	Peterson (MN)	Yates
Klein	Pickette	

## NAYS—160

Burton	Duncan
Callahan	Dunn
Calvert	Emerson
Camp	Everett
Canady	Fawell
Clay	Fields (TX)
Clinger	Fowler
Coble	Franks (CT)
Collins (GA)	Franks (NJ)
Cox	Gallegly
Crapo	Gallo
Cunningham	Gekas
DeLay	Gilchrest
Diaz-Balart	Gingrich
Diekey	Goodlatte
Doan	Goodling
Dreier	Goss
	Grams

Grandy	McCandless	Schafer
Greenwood	McCreary	Schiff
Gunderson	McDade	Schroeder
Hancock	McHugh	Sensenbrenner
Hansen	McInnis	Shaw
Hastert	McKeon	Shays
Hefley	McMillan	Shuster
Herger	Meyers	Skeen
Hobson	Mica	Smith (MI)
Hockstra	Michael	Smith (NJ)
Hoke	Molinari	Smith (OR)
Horn	Morella	Smith (TX)
Huffington	Murphy	Snowe
Hunter	Nusala	Solomon
Hutchinson	Oxley	Spence
Hyde	Packard	Stearns
Inhofe	Paxon	Stump
Istook	Petri	Sundquist
Jacobs	Pombo	Talent
Johnson (CT)	Porter	Taylor (MS)
Johnson, Sam	Portman	Taylor (NC)
Kim	Pryce (OH)	Thomas (CA)
King	Quillen	Thomas (WY)
Kingston	Quinn	Torkildsen
Klug	Ramstad	Upton
Knollenberg	Ravenel	Vucanovich
Kolbe	Regula	Walker
Kyl	Ridge	Walsh
Lazio	Roberts	Weldon
Lavy	Rogers	Wolf
Lewis (CA)	Rohrabacher	Young (AK)
Lewis (FL)	Ros-Lehtinen	Young (FL)
Lightfoot	Roarkema	Zeliff
Linder	Royce	Zimmer
Machtley	Santorum	
Manzulio	Saxton	

## ANSWERED "PRESENT"—1

Ewing

## NOT VOTING—27

Brown (CA)	Henry	Rosa
Buyer	Ineloe	Sabo
Clayton	Kopeteki	Sanders
Clyburn	Lambert	Shepherd
Crane	Leach	Synar
Delums	Livingston	Thompson
Engel	Martinez	Wheat
Finkenrath	Neal (NC)	Whitson
Hall (OH)	Range	Williams

□ 1124

Mr. TEJEDA changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). Will the gentleman from Texas [Mr. BONILLA] kindly come forward and lead the House in the Pledge of Allegiance to our flag.

Mr. BONILLA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) and sections 308(b) and 310. Consistent with the objectives described in paragraph (3), the Commission shall, by rule, prescribe expedited procedures consistent with the procedures authorized by subsection (1)(2) for the resolution of any substantial and material issues of fact concerning qualifications.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection, or in the use of competitive bidding, shall—

"(A) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 706, or any other provision of this Act (other than subsections (d)(2) and (e) of this section);

"(B) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection; or

"(C) be construed to prohibit the Commission from issuing nationwide licenses or permits.

"(7) LIMITATION OF EFFECT ON ALLOCATION DECISIONS.—In making a decision pursuant to section 303(c) to assign a band of frequencies to a use for which licenses or permits will be issued pursuant to this subsection, and in prescribing regulations pursuant to paragraph (4)(A) and (4)(C) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

"(8) TREATMENT OF REVENUES.—All proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code. A license or permit issued by the Commission under this section shall not be treated as the property of the licensee for tax purposes by any State or local government entity.

"(9) TERMINATION; EVALUATION.—The authority of the Commission to grant a license or permit under this subsection shall expire September 30, 1998. Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

"(A) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

"(B) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

"(C) evaluating the extent to which such methodologies have secured prompt delivery of service to rural areas; and

"(D) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection."

#### SEC. 5204. CONFORMING AMENDMENTS.

Section 309 of the Communications Act of 1934 is further amended—

(1) by striking subsection (1)(1) and inserting the following:

"(1) RANDOM SELECTION.—

"(1) GENERAL AUTHORITY.—If—

"(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

"(B) the Commission has determined that the use is not described in subsection (1)(2)(A);

then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection."

(2) in paragraph (2)—

(A) by indenting paragraph (2), including subparagraphs (A) through (C), by an additional 2 em spaces; and

(B) by inserting "DETERMINATIONS OF QUALIFICATIONS.—" after "(2)";

(3) in paragraph (3)—

(A) by indenting subparagraphs (A) and (B), and so much of subparagraph (C) as precedes clause (1), by an additional 2 em spaces;

(B) by indenting clauses (1) and (1i) of subparagraph (C) by an additional 4 em spaces; and

(C) by inserting "PREFERENCES; DIVERSITY.—" after "(3)";

(4) in paragraph (4)—

(A) by indenting subparagraphs (A) and (B) of such paragraph by an additional 2 em spaces;

(B) by inserting "RULEMAKING SCHEDULE AND AUTHORITY.—" after "(4)"; and

(C) by adding at the end the following new subparagraph:

"(C) Not later than 180 days after the date of enactment of this subparagraph, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection."

#### SEC. 5205. REGULATORY PARITY.

(a) AMENDMENT.—Section 332 of the Communications Act of 1934 (47 U.S.C. 332) is amended—

(1) by striking "PRIVATE LAND" from the heading of the section; and

(2) by amending striking subsection (c) and inserting the following:

"(c) REGULATORY TREATMENT OF MOBILE SERVICES.—

"(1) COMMON CARRIER TREATMENT OF COMMERCIAL MOBILE SERVICES.—(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except for such provisions of title II as the Commission may, consistent with the public interest, specify as inapplicable by rule. In prescribing any such rule, the Commission may not specify section 201, 202, or 208, or any other provision that the Commission determines to be necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or is otherwise in the public interest.

"(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this Act. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this Act.

"(2) NONCOMMON CARRIER TREATMENT OF PRIVATE LAND MOBILE SERVICES.—A person engaged in private land mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose

under this Act. A common carrier (other than a person that was treated as provider of private land mobile services prior to the enactment of the Licensing Improvement Act of 1993) shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the Commission determines that such termination will serve the public interest.

"(3) STATE AUTHORITY TO REGULATE.—(A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to impose any rate or entry regulation upon any commercial mobile service or any private land mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services.

"(B) Notwithstanding subparagraph (A), a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that (1) such service is a substitute for land line telephone exchange service for a substantial portion of the public within such State, or (1i) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(4) REGULATORY TREATMENT OF COMMUNICATIONS SATELLITE CORPORATION.—Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 of the corporation authorized by title III of such Act.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'commercial mobile service' means all mobile services (as defined in section 3(n)) that—

"(A) are provided for profit (i) to the public, (ii) on an indiscriminate basis, or (iii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public; and

"(B) are interconnected (or have requested interconnection pursuant to paragraph (1)(B)) with the public switched network (as such terms are defined by regulation by the Commission); and

"(2) the term 'private mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service."

#### (b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO DEFINITIONS.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(A) in subsection (n)—

(i) by inserting "(1)" after "and includes"; and

(ii) by inserting before the period at the end the following: ". (2) a mobile service which provides a regularly interacting group



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No. 91—Part II

## Senate

(Legislative day of Tuesday, June 22, 1993)

### OMNIBUS BUDGET RECONCILIATION ACT

(Continued)

#### UNANIMOUS-CONSENT AGREEMENT

Mr. SASSER. Mr. President, I ask unanimous consent that the following be the sequence of first-degree amendments to be debated immediately under the following time limitations. They are a DeConcini deficit reduction trust fund, 3 minutes; a Brown highway trust, 3 minutes; a Bumpers immunization, 3 minutes; a McCain hospital insurance trust fund, 3 minutes; a budget enforcement amendment by myself, 3 minutes; an amendment by Senator GRAMM, dealing with Gramm-Rudman-Hollings, 3 minutes; that the amendments be debated and laid aside until all have been debated and that after the votes are taken under the previous order the Senate begin voting back to back on, or in relation to, each amendment in order in which they were offered and that no other amendments be in order prior to their disposition.

Mr. DOMENICI. Reserving to right to object.

Mr. BUMPERS. Mr. President, reserving the right to object, I have two immunization amendments. They were originally just one that had to be severed because of a parliamentary problem. In the 3-minute debate that the Senator is offering me, I will describe both amendments. I have still a third amendment, which I think will be accepted.

Mr. SASSER. I thank the Senator.

Mr. DOMENICI. Did the unanimous-consent request include a prohibition against second-degree amendments on those?

Mr. SASSER. It did.

Mr. DOMENICI. I have no objection.

Mr. BUMPERS. Mr. President, further reserving the right to object, I want it fully understood now I am of-

fering three amendments. I am accepting 3 minutes total debate time, but I am offering three amendments.

Mr. SASSER. The Senator may offer three amendments, but, as I understand it, under our unanimous consent, only one amendment will be voted on. The Senator says a second amendment might be accepted, and we will certainly try to accommodate the Senator on that. But with regard to the third amendment, it is not on our unanimous consent list.

Mr. BUMPERS. Mr. President, I say to the distinguished Senator from Tennessee that I have offered to debate two amendments, which I had to sever. I am offering to debate 3 minutes, which I had to sever. I am offering to debate 3 minutes and describe both amendments and call the second one up without debate and the third one up without debate.

Mr. SASSER. The Senator is certainly entitled to call them all up without debate. But they would not come in sequence with these amendments here.

Mr. BUMPERS. When the Senator said no other amendments would be in order, I wanted to make sure the unanimous consent understood that.

Mr. SASSER. After these amendments are disposed of, then amendments will be in order until they are exhausted.

Under the rules there may be no debate on some of them.

Mr. BUMPERS. That is fine.

The PRESIDING OFFICER. If we can have the attention of the Senators to my left, please? There is enough confusion in the Chamber without conversation going on on the side. If Senators will take their seats, it will facilitate the debates here.

The Senator from Tennessee has a request. Does the Senator from Tennessee want to repeat that unanimous-

consent request? Or is the comment by the Senator from Arkansas sufficient to be included in the unanimous-consent request so the Chair may rule on it?

Mr. SASSER. I do not think there is really any need to include it in the unanimous-consent request. I think we have an understanding outside the unanimous-consent request, as I understand it.

Mr. DOMENICI. I understand it.

The PRESIDING OFFICER. Is the time to be equally divided on each of these amendments?

Mr. DOMENICI. It is.

Mr. SASSER. It is.

The PRESIDING OFFICER. If so, is there objection? Hearing none, the unanimous-consent request is agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that Senator BROWN be allowed to go out of order and that he be followed then by Senator DECONCINI, and then we pick up the regular sequence. Senator DECONCINI is not in the Chamber at the moment. That might expedite matters.

So the understanding is Senator BROWN will go first—I want to be sure my friend from New Mexico understands this—then we come to DECONCINI and then we go back to the regular sequence. That would pick up with BUMPERS and then alternate down from there.

Mr. DOMENICI. We have no objection to that.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to. The Senator from Colorado is recognized. If the Senator will suspend until we have order so the Senator can be heard.

The Senator from Colorado is recognized.

\* This "buffer" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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"(F) extend to any other service, class of services, or assignments that the Commission determines, after conducting public notice and comment proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption to the extent the Commission determines the use of competitive bidding would jeopardize appropriate treatment of those factors.

"(5) No provision of this subsection or of the Emerging Telecommunications Technologies Act of 1993 shall be construed, in any way, to—

"(A) alter spectrum allocation criteria and procedures established by the other provisions of this Act;

"(B) allow the Commission to consider potential revenues from competitive bidding when making decisions concerning spectrum allocation;

"(C) diminish the authority of the Commission under the other provisions of this Act to regulate or reclaim spectrum licenses;

"(D) grant any right to a spectrum licensee different from the rights awarded to licensees who obtained their license through assignment methods other than competitive bidding; or

"(E) prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology.

"(6) Moneys received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the Treasury."

(c) **STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.**—Title VII of the Act (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

**"SEC. 714. STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.**

"A license or permit issued by the Commission under this Act shall not be treated as the property of the licensee for property tax purposes, or other similar tax purposes, by any State or local government entity."

**SEC. 4006. REGULATORY PARTITY.**

(a) **AMENDMENT.**—Section 332 of the Act (47 U.S.C. 332) is amended—

(1) by striking "PRIVATE LAND" from the heading of the section; and

(2) by amending subsection (c) to read as follows:

"(c)(1)(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except that the Commission may waive the requirements of sections 203, 204, 205, and 214, and the 30-day notice provision of section 309(a), for commercial mobile services and such other provisions of title II as the Commission may, consistent with the public interest, specify by rule. In prescribing any such rule, the Commission may not waive for commercial mobile services the requirements of section 201, 202, 206, 303, 209, 215(c), 216, 217, 220 (d) or (e), 223, 225, 226 (a), (b), (c), (d), (e), (f), (g), or (h), 227, or 228, or any other provision that is necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or that is otherwise in the public interest.

"(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to section 201. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection under this Act.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any fre-

quency allocated for common carrier service, except to the extent that such dispatch service is provided on stations licensed by the Commission in the Specialized Mobile Radio Service prior to May 24, 1993, or is provided on stations licensed in the domestic public land mobile radio service before January 1, 1992. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the commission determines that such termination will serve the public interest.

"(3)(A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private land mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the continued availability of telephone exchange service at affordable rates.

"(B) Notwithstanding subparagraph (A), a State may petition the Commission for authority to regulate the rates for any commercial mobile service if such State demonstrates that (i) such service is a substitute for land line telephone exchange service for a substantial portion of the communications within such State, or (ii) market conditions with respect to such services full to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(C) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service, such State may, no later than 1 year after the date of enactment of the Emerging Telecommunications Technologies Act of 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. The State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission issues a final order granting or denying such petition. The Commission shall review such petition in accordance with the procedures and schedule established in subparagraph (B), and shall grant such petition if the State satisfies the showing required under subparagraph (B)(i) or (B)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under the State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(D) After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (B) or (C), any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

"(4) Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 of the corporation authorized by title III of such Act.

"(5) The Commission shall continue to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

"(6) The provisions of section 310(b) shall not apply to any lawful foreign ownership in a provider of commercial mobile services prior to May 24, 1993, if that provider was not regulated as a common carrier prior to the date of enactment of the Emerging Telecommunications Technologies Act of 1993 and is deemed to be a common carrier under this Act.

"(7) As part of any proceeding under this subsection the Commission (i) shall consider in such proceeding the ability of new entrants to compete in the services to which such proceeding relates, and (ii) shall have the flexibility to amend, modify, or forbear from any regulation of new entrants under this subsection, or, consistent with the public interest, take other appropriate action, to provide a full opportunity for new entrants to compete in such services.

"(8) For purposes of this section—

"(A) the term 'commercial mobile service' means any mobile service (as defined in section 3(n)) that, as specified by regulation by the Commission, is provided for profit and makes interconnected service available (i) to the public or (ii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public;

"(B) the term 'interconnected service' means service that is interconnected with the public switched network (as such term is defined by regulation by the Commission) or service for which interconnection pursuant to paragraph (1)(B) is pending; and

"(C) the term 'private land mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service under subparagraph (A)."

**(b) CONFIRMING AMENDMENTS.**

(1) **DEFINITION OF MOBILE SERVICES.**—Section 3 of the Act (47 U.S.C. 153) is amended—

(A) in subsection (n)—

(i) by inserting "(1)" immediately after "and includes"; and

(ii) by inserting immediately before the period at the end the following: "(2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment to the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90-316; ET Docket No. 92-100), or any successor proceeding; but such term does not include any rural radio service as defined by the Commission and does not include the provision, by a local exchange carrier, of telephone exchange service by radio instead of by wire"; and

(B) by striking subsection (gg).

(2) **REGULATION OF INTRASTATE COMMUNICATIONS.**—Section 2(b) of the Act (47 U.S.C. 152(b)) is amended by inserting "and section 332" immediately after "inclusive."

(c) **RULEMAKING SCHEDULE; EFFECTIVE DATE.**

(1) **RULEMAKING REQUIRED.**—Within 1 year after the date of enactment of this Act, the Commission shall—

(A) issue such modifications or terminations of its regulations as are necessary to implement the amendments made by subsection (a);

(B) make such other modifications of such regulations as may be necessary to promote par-

## **Exhibit 2**

OMNIBUS BUDGET RECONCILIATION  
ACT OF 1993

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CONFERENCE REPORT

OF THE

COMMITTEE ON THE BUDGET  
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 2264

A BILL TO PROVIDE FOR RECONCILIATION PURSUANT TO SECTION 7 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1994



AUGUST 4, 1993.—Ordered to be printed

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WASHINGTON : 1993

*Conference agreement*

The Conference Agreement adopts a modified version of the Senate provision. The purpose of this provision is to "grandfather" any foreign ownership in a provider of private land mobile services that existed prior to May 24, 1993 if that provider becomes a common carrier under this Act. Section 310(b) of the Communications Act limits the amount of private foreign ownership in a common carrier service but does not impose any such limits on the foreign ownership in private radio service. Currently, some foreign-owned companies provide private radio services. Some of these companies will become common carriers as a result of section 332(c)(1)(A). Without this "grandfathering" provision, these companies would be forced to divest themselves of any foreign ownership when this Act becomes effective.

In order to avoid this result, the Conference Agreement accepts the Senate provision with modifications to limit its application. First, Section 332(c)(6) as added by the Conference Report requires a person that may be affected by this provision to file a waiver request with the Commission within 6 months of enactment. The FCC may grant the waiver only on the following conditions:

(1) The extent of foreign ownership interest shall not be increased above the extent which existed on May 24, 1993.

(2) Such waiver shall not permit the subsequent transfer of ownership to any other person in violation of section 310(b). In effect, this condition "grandfathers" only the particular person who holds the foreign ownership on May 24, 1993; the "grandfathering" does not transfer to any future foreign owners.

Section 310(b) addresses the permissible extent of foreign investment in certain radio licenses, including common carriers. One effect of the denomination of commercial mobile services as common carrier services is to broaden the range of services subject to limitations on foreign investment. In securing regulatory parity for commercial mobile services, the Conference Agreement does not restrict the FCC's discretion, pursuant to section 310(b)(4), to permit foreign investors to acquire interests in U.S.-licensed enterprises. These amendments in no way affect the Commission's authority under section 310(b).

## SECTION 322(d)

*House bill*

Section 322(d) of the House bill defines the terms "commercial mobile service" and "private mobile service". "Commercial mobile service" is defined as a mobile service, as defined in section 3(n), that is interconnected with the Public switched telephone network offered for profit and held out to the public, or offered on an indiscriminate basis to classes of eligible users, or to such a broad class so as to equal the public. "Private mobile service" is defined as anything that does not fall under commercial mobile service. The provisions also direct the Commission to define "interconnected" and "public switched telephone network".



*Senate amendment*

Section 322(c)(8) as added by the Senate Amendment contains similar definitions of the terms "commercial mobile service" and "private land mobile service". The differences in the Senate definition of "commercial mobile service" are: (1) that "offered on an indiscriminate basis" is not one of the tests for determining a "commercial mobile service" in the Senate Amendment; (2) the Senate definition expressly recognizes the Commission's authority to define the terms used in defining "commercial mobile service"; and (3) the Senate definition requires that "interconnected service" must be made available to the public, as opposed to the House definition which simply requires the service offered to the public to be "interconnected". In other words, under the House definition, only one aspect of the service needs to be interconnected, whereas under the Senate language, the interconnected service must be broadly available. The Senate Amendment defines "interconnected service" as a service that is interconnected with the public switched network or service for which an interconnection request is pending. The definition of "private land mobile service" in the Senate amendment is virtually identical to the definition of "private mobile service" in the House bill.

*Conference report*

The Conference Report adopts the Senate definitions with minor changes. The Conference Report deletes the word "broad" before "classes of users" in order to ensure that the definition of "commercial mobile services" encompasses all providers who offer their services to broad or narrow classes of users so as to be effectively available to a substantial portion of the public.

Further, the definition of "private mobile service" is amended to make clear that the term includes neither a commercial mobile service nor the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.

The Commission may determine, for instances, that a mobile service offered to the public and interconnected with the public switched network is not the functional equivalent of a commercial mobile service if it is provided over a system that, either individually or as part of a network of systems or licensees, does not employ frequency or channel reuse or its equivalent (or any other techniques for augmenting the number of channels of communication made available for such mobile service) and does not make service available throughout a standard metropolitan statistical area or other similar wide geographic area.

## SECTION (B)

*House bill*

Subsection (B) of the House bill adds a conforming amendment to the definition in Section 3(n) of the Communications Act of "mobile service" to clarify that the term includes all items previously defined as "private land mobile service" and includes the licenses to be issued by the Commission pursuant to the proceedings for personal communications services.